



AIG Business Protection

Double and single option agreement – Death [and/or Terminal Illness and/or Critical Illness]

WARNING: This is a specimen document. Before you complete it and it is executed, we strongly recommend that you obtain independent legal and tax advice on whether this document is appropriate for your needs and on the consequences (including any tax consequences) of signing it. AIG Life Limited is not able to advise you in this regard and does not accept any liability for the effect or consequences (including any tax consequences) of using this document.

This document can be used by shareholders, members of limited liability partnerships (LLP) or partners of a business to ensure that if one of them dies, becomes critically or terminally ill:

- the deceased shareholder's/member's/partner's personal representatives have the option to sell the deceased's shareholding/interest in the business to the remaining shareholders/members/partners (as the case may be);
- the remaining shareholders/members/partners have the option to buy the deceased's shareholding/interest in the business; and/or
- the critically or terminally ill shareholder/member/partner has the option to sell their shareholding/interest in the business to the remaining shareholders/members/partners.

This document is designed for use where all the shareholders/members/partners in the business are parties to the agreement.

If any party exercises their option, the other parties are obliged to comply with the terms of the agreement. If all parties agree not to exercise their options under the agreement, there is no requirement for any party to buy or sell their interest in the business.

Please note:

As stated above, AIG has provided this document as a **specimen** for consideration by shareholders/members/partners and their professional advisers. It does not make allowance for the following circumstances:

- the bankruptcy of parties;
- where a remaining party dies or becomes critically or terminally ill during an option period; or
- where a shareholder/member/partner sells his shareholding/interest in the business or if a new shareholder/member/partner acquires an interest in the business.

In the event of any of the above situations applying a new agreement should be entered into.

Please read:

AIG shall not be responsible for the legal and/or taxation consequences of using this document. The parties must consider their own personal circumstances and any commercial implications for the business in signing the agreement and take the advice of their own professional adviser as to its suitability.

The terms of any shareholders' agreement and Articles of Association (where the business is a company) or the terms of any partnership deed or LLP agreement (where the business is a partnership or LLP) should always be reviewed and considered to ensure that there is no conflict.

Once completed, the original executed Agreement should be retained by the option Parties and kept with the company's Articles of Association and any Shareholders' Agreement, or Partnership deed, or LLP Agreement. It should not be returned to AIG.

Checklist

Please check that you have completed all relevant sections as follows **(please tick to confirm):**

		<input checked="" type="checkbox"/>
Mandatory	Entered details of the Shareholders/Members/Partners (as relevant) on page 3 of this Agreement	<input type="checkbox"/>
Mandatory	Entered the name and details of the Company/LLP/Partnership on page 3 of this Agreement	<input type="checkbox"/>
Mandatory	Selected the provisions which are most appropriate to your situation by deleting any terms you wish to exclude and/or completing any boxes in Section B of this Agreement	<input type="checkbox"/>
Mandatory	Signed this document, with all signatures witnessed by an independent witness (who should be age 18 or over and not related to any of the parties to this Agreement)	<input type="checkbox"/>
Mandatory	Dated this document (only after all sections have been completed and all parties have signed)	<input type="checkbox"/>

Single and Double Option Agreement

Death [and/or Terminal Illness and/or Critical Illness]

Please use CAPITALS and black or blue ink throughout. If you make a mistake, please correct the error by crossing out (do not use correction fluid). The Parties to this Agreement should then initial the change.

This Agreement is made on the

	day of		in the year of	
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PLEASE NOTE: DO NOT DATE UNTIL ALL PARTIES HAVE SIGNED THIS DOCUMENT.

Between:

Shareholder/ Member/Partner	Full name			
	Full address			
				Postcode

Shareholder/ Member/Partner	Full name			
	Full address			
				Postcode

Shareholder/ Member/Partner	Full name			
	Full address			
				Postcode

Shareholder/ Member/Partner	Full name			
	Full address			
				Postcode

Shareholder/ Member/Partner	Full name			
	Full address			
				Postcode

(individually a 'Party')

in respect of the Company/Limited Liability Partnership (LLP)/Partnership known as:

Company/LLP/ Partnership	Full name of Company/LLP/Partnership (and registered no. if applicable)			
	Registered address/Principal place of business:			
				Postcode

Section A: Definitions

The words in this Agreement which begin with a capital letter have particular meanings which are set out in the table below.

Word	Definition
Agreement	means this option agreement entered into by the Parties.
Business	means the Company/LLP/Partnership recorded on page 3 of this Agreement (or any successor Company/LLP/Partnership).
Business Interest	means in relation to each Party to this Agreement: (a) where the Business is a Company: all shares in the capital of the Company legally and beneficially owned by that Party from time to time; or (b) where the Business is a Partnership or LLP: all interests (including capital and goodwill) in the Partnership or LLP legally and beneficially owned by that Party from time to time.
Cover	means: (a) any life cover which pays benefits in the event of the death of a Shareholder/Member/Partner; or (b) any terminal illness cover which pays benefits in the event that a Shareholder/Member/Partner is diagnosed with a qualifying terminal illness; or (c) any critical illness cover which pays benefits in the event of a Shareholder/Member/Partner being diagnosed with a qualifying critical illness effected by a Shareholder/Member/Partner under a Policy pursuant to this Agreement.
Option Amount	means the proportion of the Business Interest each remaining Party is entitled to buy under the Option to Buy or is required to sell under the Option to Sell as calculated in accordance with clause 3.
Member	means any person who is recorded on the register of members as having a membership interest in the LLP listed on page 3 of this Agreement.
Party	means each party to this Agreement and, where relevant, their personal representatives, while they remain legal and beneficial owners of their respective Business Interest.
Partner	means any person owning capital in the Partnership listed on page 3 of this Agreement.
Policy	means the life insurance policy at schedule 1 of this Agreement.
Shareholder	means any person owning shares in the Company listed on page 3 of this Agreement.

Unless the context otherwise requires:

- words denoting the singular shall include the plural and vice versa; and
- words denoting any gender shall include all other genders.

Section B: The Agreement

WHEREAS

- A. The Parties to this Agreement are all Shareholders/Members/Partners in the Business and as such are the legal and beneficial owners of their respective Business Interest.
- B. The Parties wish to enter into this Agreement to determine how they each deal with their Business Interest.
- C. On the death, or terminal illness or critical illness of one of the Parties, it is intended that the benefits payable under the Cover enable the remaining Parties to buy the relevant proportion of the Business Interest (as calculated in clause 3 below) paying the relevant Price (as provided for in clause 4 below) either under:
- the Option to Buy should they wish to do so; or
 - the Option to Sell should they be required to do so

as set out at clause 1 below.

THE PARTIES HEREBY AGREE AS FOLLOWS:

1 Option to Buy and Option to Sell

(Please select the provisions which are most appropriate to your situation by deleting any terms you wish to exclude).

In consideration of the mutual obligations of the Parties under this Agreement, each Party hereby grants to the others the following options upon the terms set out in this clause and in accordance with the provisions of clauses 3 to 7 below:

- (a) In the event that any one of the Parties dies:
- [Each of the remaining Parties shall have the option to buy the deceased Party's Business Interest from the personal representatives of their estate (the '**Option to Buy**'). On the exercise of such Option to Buy the personal representatives of the deceased Party's estate shall be required to sell the deceased Party's Business Interest to the remaining Parties]; and/or
 - [The personal representatives of the deceased Party's estate shall have the option to sell the deceased Party's Business Interest to each of the remaining Parties (the '**Option to Sell**'). On the exercise of the Option to Sell, each of the remaining Parties shall be required to buy the deceased Party's Business Interest from the personal representatives of the deceased Party's estate]; and/or
- (b) [In the event that any one of the Parties suffers from an illness that qualifies as a terminal illness or critical illness under the terms of the Cover taken out on the life of that Party, the terminally ill or critically ill Party shall have the option to sell their Business Interest to each of the remaining Parties (the '**Option to Sell**'). On the exercise of the Option to Sell, each of the remaining Parties shall be required to buy the terminally ill or critically ill Party's Business Interest from the terminally or critically ill Party].

The exercise of any Option to Buy or Option to Sell will be on the terms set out in clauses 3, 4 and 5 below.

2 Cover

(Please select the provisions which are most appropriate to your situation by deleting any terms you wish to exclude).

- (a) [The Parties have each taken out Cover on their own lives and have placed the Cover in trust (the '**Trust**') on terms agreed in writing with the other Parties for the benefit of each of the remaining Parties];
- (b) [Each Party will pay the premiums and any other sums as they fall due to maintain the Cover until the expiry date of the Policy and shall produce proof of payment of such premiums on request by the Parties;] and
- (c) [Each Party agrees that the value of the Cover shall be commensurate with the fair value of their respective Business Interests and appropriate to the proposed arrangement under this Agreement.]

3 Amount

(Please tick one of the boxes below to indicate your preference).

The amount of the Business Interest each remaining Party is entitled to buy under the Option to Buy or is required to buy under the terms of the Option to Sell shall be calculated as:

- An equal amount between the remaining Parties; or
- In proportion to the remaining Parties' existing Business Interest at the time the relevant option is exercised.

4 Price

(Please insert the desired time frame in the box below).

- (a) Each Party agrees that the price paid by the remaining Parties for a Party's Business Interest shall be a fair value, as determined by an independent valuer.
- (b) The valuer shall be appointed by agreement between the parties and, where applicable, in accordance with the provisions contained in the Articles of Association and/or Shareholders Agreement, LLP Agreement or Partnership Deed (as the case may be) within:
- weeks of the exercise of the Option to Buy or the Option to Sell.
- (c) In default of agreement between the Parties on the appointment of a valuer, any Party may apply to the President, for the time being, of the Institute of Chartered Accountants in England and Wales for a valuer to be appointed.
- (d) The decision of the valuer shall be final and binding on the Parties.

5 Exercise of options

(Please insert the desired time frame in the boxes below and delete any terms which are not relevant to your situation).

- (a) Any Option to Buy or Option to Sell must be exercised in writing delivered personally or sent by registered post to the last known or usual home address of the relevant Party or the personal representative of the estate of a deceased Party (as appropriate) within the following time frames:
- [days/weeks] from the acceptance of the claim by the insurance company under the Policy on the death of the deceased Party; or
- [days/weeks] from the acceptance of the claim by the insurance company under the Policy on the [terminal] [critical illness] of the [terminally or critically] ill Party; or, if later
- [days/weeks] from the issue of a grant of representation (where relevant).

(such periods are referred to in this Agreement as (the '**Option Period**').

- (b) If an Option to Buy or an Option to Sell is not exercised during the relevant Option Period, all rights associated with that option shall lapse.
- (c) On the exercise of an Option to Buy or an Option to Sell within the Option Period, the remaining Parties shall pay the Price (as set out in clause 6) for the deceased Party's, or critically ill or terminally ill Party's, Business Interest and the personal representatives of the deceased Party's estate, or the terminally ill or critically ill Party, shall transfer the Business Interest within:
- [days/weeks] of the expiry of the Option Period; or (if later) within
- [days/weeks] of the valuer determining the value of the Business Interest.
- (d) Any Party's Interest in the Business shall be sold with full title guarantee.

6 Shortfall or excess of Cover proceeds

(Please insert the desired payment options in the boxes below and delete any terms which are not relevant to your situation).

If the proceeds from the terminally ill, or critically ill, or deceased Party's Cover to which any remaining Party is beneficially entitled [under the Trust] are:

- (a) Less than the value given to the Option Amount of the Business Interest, the balance of the value payable by a remaining Party under the provisions of the Option to Sell may be paid by a remaining Party in;
- instalments every month[s] commencing 12 months after the acceptance of the death or terminal illness/critical illness claim under the Policy.
- [Interest is payable on any outstanding balance at % per annum]; or
- (b) More than the value given to the Option Amount of the Business Interest, the excess may be retained by the remaining Parties, with no obligation to pay this excess to the personal representatives of the deceased Party's estate or to the terminally ill, or critically ill Party.

7 Additional provisions

(Please select the provisions that are most appropriate to your situation by deleting the terms in square brackets you wish to exclude).

- (a) [If at any time after entering into this Agreement a Party ceases to hold a Business Interest or a third party acquires an interest in the Business a new agreement must be entered into.]
- (b) [Any Party to this Agreement who ceases to have an interest in the Business shall cease to be a Party to this Agreement on the date they cease to be a Partner, Member or Shareholder of the Business and all option rights granted by/to that Party pursuant to this Agreement shall be revoked.]
- (c) [This Agreement shall cease to have effect on the dissolution of the Business or on the passing of a resolution that the Business shall be liquidated.]
- (d) [A Party shall not deal in any way with his Business Interests, unless with the written consent of the other Parties.]
- (e) [If this Agreement conflicts with the provisions of the Articles of Association, LLP Agreement or Partnership Deed (as the case may be) or any other agreement between the Parties relating to their Business Interests, [this Agreement/the Articles of Association/LLP Agreement/Partnership Deed] shall prevail.]
- (f) [This Agreement shall bind the Parties and their estates and personal representatives after their respective deaths and no one, other than a Party to this Agreement or their personal representatives, shall have any right to enforce any of its terms.]
- (g) This Agreement, and any non-contractual obligation arising out of or in connection with it and any dispute, shall be governed by and construed in accordance with the laws of England and Wales and each Party irrevocably submits to exclusive jurisdiction of the courts of England and Wales over any dispute or claim that arises under or in connection with it or the legal relationships established by this Agreement.

Schedule 1

Shareholder/Member/Partner Policies (please list the Policies of this Agreement);

Policy reference	P										-		
Policy type													
Policy reference	P										-		
Policy type													
Policy reference	P										-		
Policy type													
Policy reference	P										-		
Policy type													
Policy reference	P										-		
Policy type													

Section C: Execution

WARNING: BEFORE SIGNING THIS DOCUMENT PLEASE ENSURE THAT YOU HAVE CAREFULLY READ ALL OF ITS PROVISIONS AND THAT YOU HAVE TAKEN INDEPENDENT LEGAL AND TAX ADVICE ON THE TERMS OF THIS AGREEMENT, ITS SUITABILITY TO YOUR NEEDS AND CIRCUMSTANCES AND ITS CONSEQUENCES (INCLUDING TAX CONSEQUENCES) OF SIGNING.

In witness whereof the Parties hereto have executed this Agreement and this Agreement has been entered into, and is effective from, the date stated at the beginning of it.

Signed by:

Shareholder/ Member/Partner	Signature of Shareholder/Member/Partner	Full name
Shareholder/ Member/Partner	Signature of Shareholder/Member/Partner	Full name
Shareholder/ Member/Partner	Signature of Shareholder/Member/Partner	Full name
Shareholder/ Member/Partner	Signature of Shareholder/Member/Partner	Full name
Shareholder/ Member/Partner	Signature of Shareholder/Member/Partner	Full name



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